

46 Am. Jur. 2d Judges § 30

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Judges

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V. Powers and Duties

B. Successor Judges

§ 30. Successors of courts having several judges

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  32

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[Power of Successor or Substituted Judge, in Civil Case, to Render Decision or Enter Judgment on Testimony Heard by Predecessor, 84 A.L.R.5th 399](#)

[Power of successor judge taking office during term time to vacate, set aside, or annul judgment entered by his or her predecessor, 51 A.L.R.5th 747](#)

Where a trial court is composed of several judges, a continuing judge may act on matters submitted to the court before the end of the term of another member of the court.¹ A statutory provision requiring justices of the state supreme court assuming office as successors to justices who left the bench prior to the end of their term to serve out the unexpired term of their predecessor rather than be appointed to an initial six-year term of their own is constitutional.² Where a judge of an appellate court dies after argument but before decision in the case, the continuing judges may decide the case without reargument, at least where a majority of the continuing members are in agreement.³ Although there is authority for the view that where an appellate court is reconstituted after the decision of the case but before the time for filing a petition for rehearing has run or before the decision on such a petition has been made, the new judges may participate in the decision on the petition for rehearing,⁴ there is also authority to the contrary.⁵

Footnotes

- 1 Lockhart v. Longmore, 189 Pa. Super. 455, 151 A.2d 829 (1959).
- 2 Peck v. Douglas, 148 Vt. 128, 530 A.2d 551 (1987).
- 3 Com. v. Cannon, 387 Pa. Super. 12, 563 A.2d 918 (1989).
- 4 Glasser v. Essaness Theatres Corp., 346 Ill. App. 72, 104 N.E.2d 510 (1st Dist. 1952), judgment *aff'd*, 414 Ill. 180, 111 N.E.2d 124 (1953).
- 5 Alaska v. State, 1946-NMSC-035, 51 N.M. 13, 177 P.2d 174 (1946).

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